

TEXAS WIC PROGRAM

SUBJECT: **INADEQUATE PARTICIPANT ACCESS**

POLICY: **FD: 30.2**

EFFECTIVE DATE: April 1, 2000

REPLACES POLICY DATED: NEW

REF: Federal Regulations, 7 CFR §246.12

POLICY

Prior to disqualifying a vendor from participating in the WIC Program, the State Agency (SA) shall consider the adequacy of access by participants to authorized vendors in the local area.

PURPOSE

To ensure that disqualifying a vendor for contract/policy violations does not result in inadequate participant access to WIC foods. The issue is one of participant access, not participant convenience.

PROCEDURE

- I. Prior to the disqualification of a WIC authorized vendor, the SA shall make a determination as to the adequacy of participant access to WIC foods. The SA shall consider the availability of authorized vendors within the service area of the Local Agency (LA) from which participants receive food instruments and any geographic barriers to using such vendors. Specifically, participant access will be determined to be adequate when:
 - A. At least one other authorized vendor is located within the service area of the LA from which participants receive food instruments, except that, if the affected LA includes more than one county in its service area, there shall be at least one authorized vendor within each county served.
 - B. The SA considered but found no geographic barriers for participants to access another authorized vendor.
- II. The SA shall include in the file of each vendor disqualified documentation concerning the adequacy of participant access.
- III. If the SA, in its sole discretion, determines that disqualifying a vendor would result in inadequate participant access, the SA shall impose a civil money penalty (CMP) on the vendor in lieu of disqualification, except when prohibited by federal Program regulations, 7 CFR §246.12. The amount of the CMP shall be calculated according to criteria in Policy FD:30.0, Section IV.
- IV. In accordance with 7 CFR §246.12(f)(2)(xviii), the SA's determination regarding participant access is not subject to administrative review.